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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,419	04/22/2005	Leif Hansen	KN-87PCT	1776
40570	7590	01/28/2009		
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NEW YORK, NY 10017				
EXAMINER				
FREAY, CHARLES GRANT				
ART UNIT		PAPER NUMBER		
3746				
MAIL DATE		DELIVERY MODE		
01/28/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/532,419

Applicant(s)

HANSEN ET AL.

Examiner

Charles G. Freay

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

This office action is in response to the amendment of October 27, 2008. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are vague and indefinite because throughout they refer to a "pressure generator" and there is no antecedent basis for this term. By amendment claim 1 has deleted the reference to a pressure generator in line 2 and has replaced it with a pump.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bessiere (USPN 3,016,835).

Bessiere discloses a fluid supply unit including a pump/fluid generator 11 having a pressure outlet 15 which communicates to a pressure booster having a low pressure piston 1 and a high pressure piston 3 which operates in a chamber 4. Furthermore there is a switching valve 18 which when switched delivers a portion of the fluid from the pressure generator to be delivered to act on the low pressure piston 1. The pressure booster is installed between the pressure generator and an outlet 7. The pump/pressure generator and the pressure booster share a common housing and are clearly rigidly connected, the booster being arranged on an axial extension of the pressure generator.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bessiere.

As set forth above Bessiere discloses the invention substantially as claimed but does not show the housing being made of multiple pieces or that there is a joining surface between the pressure generator and the pressure booster. The examiner takes the position that the cross-hatched housing shown in the figure of Bessiere is almost certainly a multipiece component given the sizes and shapes of the elements which are placed inside of the passages. Nevertheless, one of ordinary skill in the art would have found it obvious to make the housing of multiple pieces and to have one of the joining surfaces be located between the pressure generator and the booster. It has been held that making elements separable is obvious where there is a reason to do so, see *In re Dulberg*, 289 F.2d 522, 523, 129 USPQ 348, 349 (CCPA 1961), such as in the current situation where having the Bessiere housing be made of plural parts as claimed would allow for easier assembly, disassembly and repair of the device.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bessiere as applied to claims 1 and 2 above, and further in view of Gram et al (USPN 5,868,122) .

As set forth above Bessiere discloses a fluid supply unit substantially as claimed but does not disclose the tank being rigidly connected or integrated into the housing with the pressure generator. Gram et al disclose a similar fluid drive system having a pressure generating pump with an integrated and rigidly connected tank 28. At the time of the invention it would have been obvious to one of ordinary skill in the art to integrate and rigidly connect a hydraulic tank to the device of Bessiere in order to create a compact unit of a single piece design which would reduce the number of parts and make transportation simpler.

Claims 8-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bessiere.

As set forth above Bessiere discloses the invention substantially as claimed but does not set forth that the pump is a gear pump or that the motor and the pump have a common shaft. The examiner gives official notice that gear pumps are well known fluid motor type drive pump and further that pumps having a common shaft with an electric motor are well known. At the time of the invention it would have been obvious to one of ordinary skill in the art to utilize a gear pump in view of its simple construction and because its a positive displacement pump and therefore the amount of driven fluid is

easily determined and controlled. Furthermore the pump and the motor having a common shaft would have been obvious in order to reduce the number of parts and to create a compact assembly.

It is noted that in the reply of October 27, 2008 the applicant did not challenge the examiner's taking of official notice as set forth above. This is taken as an admission that gear pumps are well known fluid motor type drive pumps and further that pumps having a common shaft with an electric motor, which represents a rigid connection between the motor and pressure generator, are well known in the prior art.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bessiere as applied to claim 10 above.

As set forth above Bessiere discloses the invention substantially as claimed but does not disclose a battery housed in the housing. The examiner gives official notice that batteries are well known power sources for electric motors. At the time of the invention it would have been obvious to provide such a battery and to house it in the housing in order to improve the portability obtained by the Bessiere design and to protect the battery.

It is noted that in the reply of October 27, 2008 the applicant did not challenge the examiner's taking of official notice as set forth above. This is taken as an admission that batteries are well known power sources for electric motors in the prior art.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bessiere as applied to claim1 above, and further in view of Miyazaki (USPN 4,393,749).

As set forth above Bessiere discloses the invention substantially as claimed but does not disclose that the booster is made of a light material. Miyazaki teaches of a booster piston made of aluminum. At the time of the invention it would have been obvious to one of ordinary skill in the art to make the Bessiere booster piston of aluminum as taught by Miyazaki to reduce the weight of the device.

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles G. Freay whose telephone number is 571-272-4827. The examiner can normally be reached on Monday through Friday 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles G Freay/
Primary Examiner, Art Unit 3746

CGF
January 16, 2008